

*Vauston*  
*LS-6469*

OGC HAS REVIEWED.

23 December 1953

MEMORANDUM FOR: General Tax File

SUBJECT : Entertainment Deductions for Employees

1. The question of reimbursement to employees for entertainment expenses or their deduction from personal income tax has arisen from time to time within the Agency. Aside from certain special provisions for the use of unvouchered funds in entertainment or representation, there is no authority providing for reimbursement to employees for entertainment expenses incurred in other than covert operations.

2. The general rule is that an employee's expenses are deductible in the computation of his adjusted gross income only in relation to travel or where the expense is reimbursable by the employer. Some expenses have been permitted as deductions from the adjusted gross for taxable net income when the expense has been one normally expected in a business of the nature in which the employee is working and necessary in the pursuit of that business. However, in the case of Government employees, Mr. Swartz, Head, Tax Ruling Division, IRS, indicated to me that the necessity is normally established by some authorization or approval of the employee's superior. For example, in several cases, entertainment undertaken by employees of the State Department was allowed where the Secretary certified that the entertainment was reasonably required and necessary in relation to the employee's position in the performance of his work. Admittedly, the area of allowance is somewhat fuzzy and the criteria are far from rigid. He pointed out that in the Notch Case the Tax Court felt that expenses in excess of the reimbursable per diem were personal in nature and should be disallowed. This, in turn, is more stringent than the normal rule and the ruling is not being followed by the IRS. In another case, a Senator claimed a deduction for luncheon entertainment of his constituents. IRS will probably disallow.

3. In the most immediate question presented to this office, it should be noted that we have the added consideration that the person claiming the expenses is the only one qualified to certify to their reasonableness and necessity for his work.

STATINTL

[Redacted Box]

OGC/CWP:cst

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